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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

British Virgin Islands

Working paper prepared by the Secretariat

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I. General

1. The British Virgin Islands is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The basis of the relationship between the Government of the United Kingdom and its Non-Self-Governing Territories is enshrined in the constitution of each Territory. The British Overseas Territories Act 2002 grants the right of British citizenship to "British Overseas Territory citizens".

2. The Territory is located approximately 100 kilometres east of Puerto Rico and 25 kilometres from the United States Virgin Islands. Over an area of 153 square kilometres, it comprises a group of some 50 islands, islets and cays that form an archipelago with the United States Virgin Islands that reaches over some 3,445 square kilometres of sea. Twenty of the Territory's islands are inhabited. The capital city, Road Town, is located on the largest island, Tortola. The other major islands are Virgin Gorda, Anegada and Jost Van Dyke.

3. For 2010, the population of the Territory was estimated at approximately 25,000, of which some 19 per cent were citizens, or "belongers". The great majority of "non-belongers" hailed from countries in the region, North America and Europe.[1]

4. Since 1959, the legal tender of the British Virgin Islands has been the United States dollar. The principal trading partners of the British Virgin Islands are the United States of America, the Caribbean Community (CARICOM) and the United Kingdom.

5. The earliest known inhabitants of the Territory were the Arawaks and the Caribs, indigenous people of the region. The Dutch established the first permanent European settlement in 1648. In 1666, British planters took control of the islands and the Territory attained the status of a British colony. The planters were granted civil government, constitutional courts, an elected House of Assembly and a partly nominated Legislative Council, which first met in 1772. In 1872, the islands became part of the Federation of the Leeward Islands. In the 1930s and 1940s, British Virgin islanders demanded greater self-governance, which led to the Territory becoming a separately administered colony in 1956.

II. Constitutional, political and legal issues

6. Under the Virgin Islands Constitution Order 2007, the administering Power appoints a Governor with responsibilities for defence, internal security, external affairs, public service and the administration of the courts. In the areas of internal security and external affairs, the Constitution provides for the territorial Government to have formal input, allowing for greater sharing of those

Note: The information contained in the present working paper has been derived from public sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations. Further details are contained in previous working papers available from www.un.org/Depts/dpi/decolonization/docs.

[1] Information transmitted by the administering Power on 11 January 2011. Other sources: International Monetary Fund, Financial Sector Stability Assessment of the British Virgin Islands, October 2010; and The Economist Intelligence Unit, British Virgin Islands and Caribbean Report, December 2010.

responsibilities. At the same time, there is an overriding reservation for the British monarch to make laws for the peace, order and good government of the Virgin Islands; specifically there is limited legislative or discretionary power reserved for the Governor. In terms of external relations, the British Virgin Islands is entrusted to negotiate treaties in specific areas such as certain offshore financial matters.

7. The Governor of the British Virgin Islands, William Boyd McCleary, took office on 20 August 2010.

8. The 2007 Constitution led to the introduction of the current cabinet style of Government. The Executive Council was replaced by a Cabinet, the Chief Minister by a Premier and the Legislative Council by a House of Assembly. The Cabinet consists of the Premier (appointed by the Governor from among the elected members of the House of Assembly), four other Ministers (appointed by the Governor on the advice of the Premier) and one ex officio member (the Attorney General). The Governor attends and presides over the Cabinet. The agenda is agreed by the Cabinet Steering Committee, consisting of the Governor, the Premier and the Cabinet Secretary. The House of Assembly consists of a Speaker, the Attorney General (ex officio) and 13 elected members (9 members from one-member electoral districts and 4 members representing the Territory at large). In 2009-2010, work continued on increasing the number of elected members of the House of Assembly by two, through an increase in the number of electoral districts from nine to eleven.

9. There are four political parties in the Territory: the Virgin Islands Party founded in 1971; the United Party founded in 1966; the Concerned Citizens' Movement founded in 1994; and the National Democratic Party founded in 1998. General elections must be held at least once every four years. Candidates are elected based on a simple majority. Persons voting must be 18 years of age or over and have "belonger" status.

10. In the general election held on 20 August 2007, the Virgin Islands Party won 10 of the 13 seats in the House of Assembly and subsequently formed the Government, with Ralph T. O'Neal as Premier. A general election was scheduled for September 2011.

11. The law of the British Virgin Islands comprises common law of England, locally enacted legislation and imperial legislation. Justice is administered by the Saint Lucia-based Eastern Caribbean Supreme Court, which consists of two divisions: the High Court of Justice and the Court of Appeal. According to the administering Power, there are three resident High Court Judges and a visiting Court of Appeal, which comprises the Chief Justice and two judges of appeal and sits twice a year in the Territory. There is also a Magistrates Court, which hears prescribed civil and criminal cases, as well as a Juvenile Court and a Court of Summary Jurisdiction. The United Kingdom Privy Council is the final court of appeal.

12. Speaking at the Caribbean Regional Seminar, convened under the auspices of the Special Committee and held in Frigate Bay, Saint Kitts and Nevis from 12 to 14 May 2009, the representative of the British Virgin Islands stated that, although no one in the Territory wanted the British Virgin Islands to be a colony or territory of any administering Power, there was no support for independence among the

people of the Territory. The predominant view was that independence should be pursued only when the British Virgin Islands could be sustained economically.

13. In 2010, according to media reports, the Premier conveyed to the Governor that there were a number of areas with regard to the Constitution of the Territory that needed to be addressed on an urgent basis, including the meaning of "consultation" between the Governor and the territorial Government, and the selection and appointment of public officers. Overall, it was felt that greater responsibility should be given to the local political leadership.

III. Budget

14. According to the administering Power, the estimated expenditures of the Territory for 2010 were approximately $250 million, with a revenue of about $272 million. The territorial Government continued to be the responsible steward of public sector finance, first by funding capital expenditures from operating surpluses, where feasible, and second by remaining in compliance with the borrowing guidelines agreed with the Government of the United Kingdom. The 2011-2012 budget of the territorial Government projected revenue of $288 million and operational expenditures of approximately $260 million, leaving a surplus of $28 million, to be spent on development, emergencies, disasters, pensions, contingencies and repairs and renewal funds.

15. According to the Territory's 2010 budget speech, total Government debt was expected to be approximately $151 million, to be serviced within the borrowing guidelines agreed with the Government of the United Kingdom. The territorial Government also embarked on various cost-reduction and revenue-enhancement initiatives, including a comprehensive review of tax and fee legislation rates, a workforce-planning exercise and a reduction of the number of public servants to create a less costly and more efficient public sector.

16. In the British Virgin Islands, there is no income, corporation, value added or goods and services tax. Several tax information exchange agreements have been signed by the British Virgin Islands, including with the United Kingdom in 2008. According to the 2010 budget speech, the territorial Government had fully committed to ensuring that the Territory's tax information exchange agreements with the Organization for Economic Cooperation and Development were implemented effectively. During 2010, several related tax information exchange agreements were signed by the British Virgin Islands and other countries, and it was expected that similar agreements would be signed in 2011.

IV. Economic conditions

A. General

17. According to the information provided by the administering Power, the economy of the British Virgin Islands is largely based on offshore financial services, which contributed over half of the gross domestic product (GDP), and tourism. Figures for 2009 indicated that GDP fell by $115.7 million, or 11.7 per cent, to $876.3 million as a result of the global economic slowdown. During that period,

per capita GDP was estimated at $30,341. According to the 2010 budget address, the Territory's economy showed signs of recovery during that period, based on provisional statistics showing that tourist arrivals and company incorporations increased by 4 per cent and 33 per cent respectively, and showing an estimated GDP growth rate of 6 per cent.

B. Financial services

18. The financial services sector accounted for nearly 60 per cent of the GDP of the Territory. According to the 2010 budget speech, the effects of the global financial crisis were experienced in the Territory's financial services industry. Up to the third quarter of 2009, incorporation figures were down by approximately 32 per cent compared with the same period in 2008. Although that was a significant decrease, the overall number of companies registered in the British Virgin Islands remained about 410,000. According to media reports, around 3,000 hedge funds were registered in the British Virgin Islands in 2010 under the Territory's Securities and Investment Business Act, which governs its investment funds and securities industries.

19. The Securities and Investment Business Act 2010 was enacted in May 2010 in an effort to further strengthen the Territory's financial services sector. According to the administering Power, the Act was designed to modernize the Territory's mutual funds and investment business regimes in the light of international standards established for the regulation of securities, including the need to adopt appropriate measures to guard against market abuse and insider trading.

20. In 2010, the International Monetary Fund (IMF) released the Financial Sector Stability Assessment of the British Virgin Islands, which summarized its review of the Territory's regulatory regime financial services sector. In the assessment, the IMF recognized the strength of the regulatory regime in the Territory and made a number of recommendations, such as the full implementation of the existing Securities Investment Business Act and larger fines in financial laws. According to the 2010 Throne Speech, the territorial Government would ensure that everything was done to maintain and improve the standing of the financial services sector, including the early implementation of changes recommended by the IMF report.

C. Tourism

21. Tourism, with a focus on the "high-end" traveller, accounted for approximately 37 per cent of the Territory's GDP and directly employed one in three people in the British Virgin Islands. According to the administering Power, visitor arrivals reached 856,863 in 2009.

22. Reduced demand for leisure travel in the face of the global economic crisis had affected tourist arrival numbers in the British Virgin Islands. Overall arrivals for 2009 were down by approximately 10 per cent compared with 2008. This downward trend was driven by the decline in overnight tourist arrivals (a decline of around 17 per cent). Cruise tourism, on the other hand, was relatively strong during 2009 when compared with overnight tourism, and arrivals in some months were greater than in 2008. Interest in the yachting industry continued to grow; in 2009 the

number of large yachts visiting the Territory from Eastern Europe and the United States exceeded that of 2008.

23. During 2010, the Territory's tourist board embarked on several new initiatives for the tourism industry, including efforts to reach out to non-traditional markets such as China, India, the Russian Federation, the Middle East, and further into Latin America, the Caribbean and Europe. In addition, the board continued to implement its environmentally focused programmes such as Blue Flag Marinas and Boats and Green Globe Certification, promoting sustainable tourism development. It also continued with its efforts towards improving service standards in the Territory with focused customer training programmes and a new initiative to improve basic physical standards for tourist accommodation properties.

D. Agriculture, fisheries and shipping

24. Agriculture and fishing continued to account for less than 1 per cent of the Territory's GDP and most food requirements were met through imports. Around 800 hectares of land were under cultivation and 4,000 hectares in pasture. The main crops were fruit and vegetables, which were produced both for local consumption and for export to the United States Virgin Islands. According to the 2010 budget speech, the territorial Government continued its work to complete a greenhouse project as a measure to reduce vulnerability to external shocks in the food market.

25. The Territory's Fisheries Act of 1997 and Fisheries Regulations of 2003 govern fishing in the British Virgin Islands. Fishing mainly serves the local market. The two main types of fisheries in the Territory are small-scale commercial and recreational fisheries. In 2010, according to the administering Power, the Territory's fishery waters recorded the presence for the first time of the lionfish *Pterois volitans*, a highly invasive predatory species with venomous dorsal spines. Steps are being taken to control this marine invasion, including education awareness about their capture through organized dives and fishing trips.

E. Communications

26. The British Virgin Islands had over 200 kilometres of surfaced roads. In 2010, the territorial Government continued its efforts to ensure that the road network remained safe for residents and visitors. According to the 2010 budget speech, several miles of road in Anegada were surfaced in 2009-2010, and the Valley/Nail Bay road on Virgin Gorda and roads in Jost Van Dyke were completed.

27. Direct shipping services operate from the United Kingdom, the United States and the Netherlands. A deepwater harbour exists in Road Town. A regular ferry service links Tortola with some of the other islands and with Saint Thomas of the United States Virgin Islands. There are three international airports, served by 15 airlines. The Territory's seaport infrastructure continued to be developed. For instance, in 2010, construction of a new tender dock and renovations to the existing cruise pier were completed at the cruise ship dock. The new structure comprised a dock measuring 336 feet in length and an adjoining pier measuring 100 feet in length, and was built to facilitate tenders from cruise ships anchored at Road Harbour.

28. According to the 2010 Throne Speech, the Territory continued work on amendments to the Telecommunications Act 2006 aimed at strengthening consumer protection, to define the general powers of the Telecommunications Regulatory Commission in relation to dispute status and the enforceability of decisions adopted, and the procedures for appealing decisions. Regulations would also be issued for the establishment of an Internet exchange point in the Territory.

29. As reflected in the 2010 Throne Speech, preparations were under way to establish comprehensive legislation regarding the administration of the Territory's public water supply and sewerage systems to ensure correct usage, prevent abuse and guarantee full service during the life of utility investments. According to the 2010 budget speech, arrangements were made better to ensure water supply and develop greatly improved sewerage systems, including in Road Town and East End/Long Look areas, with a view to phase out the use of septic tanks, especially in the most populated localities.

30. Physical planning in the British Virgin Islands is governed by the Physical Planning Act of 2004, under which all development in the Territory must be approved by the Physical Planning Authority. In 2010, according to the administering Power, the Planning Authority served 40 compliance notices and had one case go before the court. Also during that period, 680 planning applications were processed.

V. Social conditions

A. General

31. Financial assistance for sickness and maternity benefits and pensions are provided through the Social Security Board. The Social Development Department provides grants and other assistance through the Public Assistance Committee, appointed by the Cabinet. Other programmes administered by the Social Development Department include services for the elderly and the disabled, and community development.

32. According to the 2010 Throne Speech, the territorial Government had been working on draft legislation to establish a human rights commission in line with the 2007 Constitution and international standards, including through public consultations on a draft human rights commission act. The purpose of the commission would be to promote greater awareness of human rights in the Territory and to ensure that human rights were upheld and respected. According to media reports, the Attorney General's Chambers provided legal advice to the territorial Government on all aspects of human rights and was responsible for the Territory's international human rights reporting obligations.

B. Labour and immigration

33. According to information transmitted by the administering Power, the labour force of the British Virgin Islands comprised approximately 30 per cent Virgin Islanders and 70 per cent expatriates. The main employers continue to be the territorial Government, financial services, hospitality and construction sectors. The unemployment rate was approximately 3.1 per cent. Unemployment increased

throughout 2010 as establishments made efforts to reduce overhead costs. Layoffs during 2009/2010 had significantly impacted the tourism sector, particularly the hotel and restaurant industry.

34. According to the 2010 budget speech, work permit applications decreased by approximately 7 per cent in 2009. Work permit exemptions are granted by the territorial Government on the basis of enrolment in the school system (entrance at the primary level and completion at the secondary level), marriage to a belonger for a period of not less than three years and residency in the Territory of the British Virgin Islands for 20 years or more by a person who has demonstrated good character. The number of exemptions granted is considered on an annual basis.

35. According to the October 2010 Throne Speech, the passage of the 2010 Customs Management and Duties Act modernized legislation dating back to 1974 and brought the Territory into compliance with international standards. It also enhanced the Government's investigative, law enforcement and border security capabilities, with a view to respecting the relevant entry requirements. The 2010 Labour Code Act gives the Territory a comprehensive labour code in line with International Labour Organization (ILO) standards, provides for the improvement of labour administration, prescribes minimum employment conditions and offers a system for labour administration, dispute settlement and the observance of labour laws generally.

C. Education, culture and sports

36. For 2010/11, the territorial Government allocated 16 per cent of its annual budget to the Ministry of Education and Culture. Primary and secondary education is free and compulsory for children between 5 and 16 years of age, and "A-level" education is also free. There are public and private primary schools in the Territory on Tortola, Anegada, Virgin Gorda and Jost Van Dyke, and private and public high schools. The comprehensive H. Lavity Stoutt Community College at Paraquita Bay offers university-parallel, technical-vocational and adult continuing education programmes. In 2010, a total of 248 students graduated from the Territory's secondary schools. The results of the secondary school leaving examination revealed that, out of 272 students who sat the examination, approximately 8.8 per cent failed.

37. According to the 2010 Throne Speech, the Territory had begun work on a review of the Education Act 2004 and a student code of conduct. Because of the complexity of that area, the territorial Government was committed to ensuring that related legislation was sound and that any legislative changes would result in a modern and relevant education system. Legislative work on special education needs and the reform of technical and vocational education were also under way, as were efforts towards formulating draft legislation for early childhood education and policies governing sports and youth.

38. With regard to cultural initiatives, the territorial Government was taking steps to introduce a "Territory song" to celebrate the people of the British Virgin Islands.

D. Public health

39. The Health Services Authority of the Territory, an autonomous corporate body, was established in 2005 with the passage of the British Virgin Islands Health

Services Act, to manage all public health-care delivery services for the Ministry of Health and Social Development. According to the administering Power, the territorial Government continued to be the major funding source for the Authority. In 2010, the territorial Government indicated that it had discovered $7.4 million of overspending by the Health Services Authority in 2009, and had put in place mechanisms to prevent such problems in the future.

40. The British Virgin Islands had one 44-bed public hospital, Peebles Hospital, and one 8-bed private hospital, the Bougainvillea Clinic. Both were located in Road Town. According to the administering Power, there were 103 physicians and 11 dentists registered to practise in the Territory.

41. A review of the Territory's health legislation began in 2008. According to the 2010 Throne Speech, efforts continued during 2010 with a view to revising the governance arrangements for the health sector and strengthening the Health Services Authority. The 2010 budget statement indicated that the Territory had begun the process of designing a national health insurance scheme with a team from the Health Economics Unit of the University of the West Indies.

42. Revisions to the Domestic Violence (Summary Proceedings) Act, 1995 had been completed to update legislation in line with modern practice and relevant international conventions on domestic violence. A social legislation package on children and domestic violence was under preparation, as were a disability policy and a legislative brief for the benefit of the disabled and on mental health awareness and prevention.

E. Crime and public safety

43. The increased level of violent, organized and petty crime in the Territory in previous decades had become a matter of concern. The problem was being addressed by the territorial Government with support from the Royal Virgin Islands Police Force. As reflected in the 2010 Throne Speech, the Proceeds of Criminal Conduct (Amendment) Act 2010 strengthened the crime-fighting capabilities of the police force and other law enforcement departments and agencies, with additional efforts under way in the areas of victim and witness protection and police response time.

44. Efforts continued to be made to ensure that the conditions at the Territory prison at Balsum Ghut, Tortola, were in accordance with international standards and territorial laws. As reflected in the 2010 Throne Speech, prison reform remained high on the Government's legislative agenda. In consultation with other stakeholders, the Government had embarked upon a campaign to improve further the infrastructure and social well-being of both inmates and officers.

45. The territorial Government continued to focus on strengthening the criminal justice system and was expected to introduce several pieces of legislation, including a Justice Protection Act and amendments to the Police Act and Prison Rules.

VI. Environment

46. The British Virgin Islands has acceded to several multilateral environmental agreements, including the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Convention on Biological Diversity, the Convention on Wetlands of International Importance and the Convention on International Trade in Endangered Species of Wild Fauna and Flora. In 2010, according to media reports, the Territory established marine and coastal protection systems and protected areas to conserve its biodiversity.

47. Numerous attempts had been made over the previous years to amend the Territory's Petroleum Ordinance to bring it in line with international standards. According to the 2010 Throne Speech, an oil spill prevention bill was under preparation. The bill sought to prevent petroleum products and hazardous materials from entering the territorial waters of the British Virgin Islands; to establish a Marine Unit under the Ministry of Communications and Works to control and manage the discharge of oil pollutants or hazardous materials in the territorial waters; to provide for the appointment of an oil spill and response administrator; to provide for licensing to operate vessels and facilities; and to provide for offences, penalties and related matters.

48. According to media reports, the British Virgin Islands Electricity Corporation was expected to install solar energy street lights on Tortola, with a view to reducing dependency on fossil fuel and save energy. The Territory's first annual "BVI Go Green Festival" was held in 2010 to promote eco-friendly efforts in the Caribbean with seminars, fairs, lectures and concerts.

VII. Relations with international organizations and partners

49. The British Virgin Islands has associate membership in the Economic Commission for Latin America and the Caribbean, ILO and the United Nations Educational, Scientific and Cultural Organization.

50. The Territory is an associate member of CARICOM and the Organization of Eastern Caribbean States, and a borrowing member of the Caribbean Development Bank.

51. As a Non-Self-Governing Territory of the United Kingdom, the British Virgin Islands is associated with the European Union but is not a part of it.

VIII. Future status of the Territory

A. Position of the territorial Government

52. The position of the territorial Government regarding the future status of the British Virgin Islands is reflected under section II on constitutional issues.

B. Position of the administering Power

53. Information on the general position of the United Kingdom with regard to its Overseas Territories was included in the August 2010 report of the Secretary-General entitled "Second International Decade for the Eradication of Colonialism" (A/65/330, annex). On 4 October 2010, the United Kingdom made a statement before the Special Political and Decolonization Committee (Fourth Committee) during the sixty-fifth session of the General Assembly.

54. According to the record of the meeting of the Fourth Committee (A/C.4/65/SR.2), the representative of the United Kingdom reiterated the British Government's established position that its relationship with its Overseas Territories was a modern one based on partnership, shared values and the right of each Territory to determine whether it wishes to stay linked to the United Kingdom or not. Although the situation in each Territory was different and some Territories were at a more advanced stage of development than others, the United Kingdom would continue to work with all the Territories, as appropriate, in areas such as good governance, political and economic development and transparency, enhanced security and reduced vulnerability to natural and non-natural disasters.

55. The speaker went on to say that the relationship between an Overseas Territory and the United Kingdom was enshrined in the constitution of each Territory. A recent constitutional review process with a number of the Territories had resulted in updated provisions of existing constitutions, such as human rights provisions, and those relating to good governance and the respective roles of the Governor and locally elected politicians.

56. Further, good governance had been the central theme in all constitutional talks with the Territories. The British Government had no wish to micromanage its relationship with its Overseas Territories and was committed to allowing each Territory to run its own affairs to the greatest degree possible. But that brought with it responsibilities on the part of each Territory. Where the United Kingdom felt that a Territory was failing to fulfil the international obligations which extended to it or where developments in a Territory gave rise to other concerns, the British Government would not hesitate to raise such matters with the Territory's Government and to intervene where necessary.

C. Action by the General Assembly

57. On 10 December 2010, the General Assembly adopted without a vote resolutions 65/115 A and B, based on the report of the Special Committee transmitted to the General Assembly (A/65/23) and its subsequent consideration by the Fourth Committee. Section IV of resolution 65/115 B concerns the British Virgin Islands. Under that section's operative paragraphs, the General Assembly:

> 1. *Recalls* the new Constitution of the British Virgin Islands, which took effect in June 2007, and stresses the importance of continued discussions on constitutional matters;
>
> 2. *Requests* the administering Power to assist the Territory by facilitating its work concerning public outreach efforts, consistent with Article 73 *b* of the Charter of the United Nations, and, in that regard, calls

upon the relevant United Nations organizations to provide assistance to the Territory, if requested;

3. *Welcomes* the efforts made by the Territory to stimulate, including through small business development, the two major segments of its economic base, namely financial services and tourism.